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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/622,291	08/09/2000	Bernard Agasse	11345.025001	9720

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EXAMINER
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BORLINGHAUS, JASON M

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Office Action Summary</b>	<b>Application No.</b> 09/622,291	<b>Applicant(s)</b> AGASSE ET AL.	
	<b>Examiner</b> Jason M. Borlinghaus	<b>Art Unit</b> 3628	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/06/04.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 29-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102/§ 103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 29 – 30, 32 - 34, and 37 – 39** are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brenner (US Patent 6,089,981).

**Regarding Claim 29 – 30, 32, 34 and 38**, Brenner discloses;

- an interactive gaming and audiovisual transmission system comprising:
  - a central gaming computer means for processing gaming data. ("Racing data such as the names and post positions of the runners that are in various races and the current odds and payoffs for those races are provided by a wagering facility (typically based on a system known as a "totalisator" located at a racetrack). Supplemental racing data such as the weather conditions at various racetracks may be provided by additional sources. A computer-based data concentrator processes the racing data from the totalisator and any additional sources and provides the racing data to a television network--typically at a main distribution node for a cable television network known as the "headend" facility." – see col. 3, lines 35 – 45); and
  - a receiver/decoder for receiving broadcast audiovisual data relating to a live-action broadcast event ("Another aspect of the invention relates to simultaneously displaying racing videos and racing data on a monitor...The racing video source provides racing videos to the video and data distribution system from a source of racing videos, such as live video feeds from racetracks." – see col. 4, lines 5 – 13), and for receiving from the central gaming computer means gaming data relating to the live-action broadcast event ("Each user terminal receives the video signals and the racing data and separates out the racing data." – see col. 3, lines 61 – 62), wherein the receiver/decoder is configured to allow a user to place a bet

on an outcome of the live-action broadcast event ("When a user has entered all of the data necessary to place a wager, the corresponding wager data are transmitted to a wagering data management system..." – see col. 4, lines 37 – 41) and configured to allow the user to view the live-action broadcast event as a third-party;

- the receiver/decoder including:
  - a subscription card reading device for interacting with a user's subscription card (smart card) for providing user access to the live-action broadcast event ("For example, the distribution facility can limit the content of its transmissions to user terminals... If desired, user terminals may also be individually addressable, which allows distribution facility to provide different types of service to different sets of user terminals. Any suitable addressing technique may be used. For example, an addressing technique similar to that used in conventional addressable cable converter units may be used. User terminals may be provided with preprogrammed authorization codes when they are manufactured or a user may be provided with an appropriate authorization code to enter into user terminal (e.g., using remote control, smart card).") – see col. 10, lines 33 – 52);
  - a bank card reading device for interacting with a user's bank card (smart card) to read data stored thereon. ("Alternatively, the user may place wagers directly against his regular bank account. A

security measure that may be used, either in addition to requiring the personal identification code or as an alternative to the personal identification code is to use a physical key or access device, such as a smart card, magnetic stripe card, or electronic hardware key.”

– see col. 4, lines 55 – 60). (“Preferably, non-volatile storage device includes a smart card interface that accepts smart card. Smart card interface allows account and account verification information to be stored on smart card. Smart card must be inserted in smart card interface in order to place a wager.” – see col. 8, line 63 – col. 9, line 1); and

- a modem device (“...an automated modem system for receiving incoming transaction data from communication devices contained within user terminals...” – see col. 19, lines 39 – 44) for communicating data read from the user's bank card to a system connected to a bank server holding the user's bank account for transferring in response to said data credit from the user's bank account to a gaming account at the central gaming computer means in order to permit gaming in relation to the live-action broadcast event. (“Occasionally, the user may wish to transfer funds from a bank account into the wagering account at the wagering data management system. To do so, the user enters the amount to transfer and a personal identification code into the user

terminal. This information is transmitted to an appropriate bank facility, which, after verifying the user's account information, authorizes the transfer of the selected amount of funds from the bank account into the wagering account." – see col. 4, lines 47 – 52 – establishing that Brenner's system can communicate financial data between user terminal, central gaming computer and user's bank).

- a system wherein the data communicated to the system is in the form of an electronic certificate (electronic funds transfer) generated by the bank card in response to transaction data submitted by the receiver/decoder.

("Occasionally, the user may wish to transfer funds from a bank account into the wagering account at the wagering data management system. To do so, the user enters the amount to transfer and a personal identification code into the user terminal. This information is transmitted to an appropriate bank facility, which, after verifying the user's account information, authorizes the transfer of the selected amount of funds from the bank account into the wagering account." – see col. 4, lines 47 – 52).

- a system wherein the system is adapted to communicate with the central gaming computer means. ("User terminals are linked to subscriber facility via communication lines, network, and communication line, which may be, for example, a leased telephone line. Subscriber facility is linked to wagering data management facility via communication line. Additional communication

links are formed between subscriber facility and racetrack, merchandise fulfillment house, production facility, bank facility, and third parties.” – see col. 19, line 63 – col. 20, line 5 – establishing that central gaming computer communicates through a communications server).

- a system wherein the receiver/decoder is adapted to communicate gaming information to the central gaming computer means during gaming operation via said communications system. (“User terminals are linked to subscriber facility via communication lines, network, and communication line, which may be, for example, a leased telephone line. Subscriber facility is linked to wagering data management facility via communication line. Additional communication links are formed between subscriber facility and racetrack, merchandise fulfillment house, production facility, bank facility, and third parties.” – see col. 19, line 63 – col. 20, line 5).
- a system wherein said central gaming computer means is arranged to send some or all of the gaming data to the receiver/decoder via said communications system. (“When a user has entered all of the data necessary to place a wager, the corresponding wager data are transmitted to a wagering data management system...” – see col. 4, lines 37 – 41)

Brenner does not teach a system using a communications server.

Brenner must contain a communications server to enable communication between the system’s component elements or, in the alternative, it would have been



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obvious to incorporate a communications server in Brenner to enable communication between the system's component elements.

**Regarding Claim 33**, Brenner discloses a system wherein the central gaming computer means is adapted to receive and transmit credit information to or from the bank server via a network communication link. ("User terminals are linked to subscriber facility via communication lines, network, and communication line, which may be, for example, a leased telephone line. Subscriber facility is linked to wagering data management facility via communication line. Additional communication links are formed between subscriber facility and racetrack, merchandise fulfillment house, production facility, bank facility, and third parties." – see col. 19, line 63 – col. 20, line 5).

**Regarding Claim 37**, Brenner discloses a system comprising transmitter means for transmitting to the receiver/decoder said audiovisual data (racing video) and some or all of said gaming data (racing data). ("Another aspect of the invention relates to simultaneously displaying racing videos and racing data on a monitor. Racing data are provided from totalisators and from third party sources. A racing data interface processes the racing data and provides the processed data to a video and data distribution system. The racing video source provides racing videos to the video and data distribution system from a source of racing videos, such as live video feeds from racetracks...The video and data distribution system may involve satellite distribution or distribution via a cable headend facility. Regardless of the medium over which the racing data and racing videos are distributed, the racing data are preferably provided with the racing videos on at least one television channel. One suitable approach for

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distribution of the racing data uses a frequency modulated carrier on a sideband of a television signal.” – see col. 4, lines 5 – 22). (“Each user terminal receives the video signals and the racing data and separates out the racing data.” – see col. 3, lines 61 – 62).

**Regarding Claim 39**, Brenner discloses a system wherein said event comprises a real-time sporting event. (“...live video feeds from racetracks.” – see col. 4, lines 5 – 13).

***Claim Rejections - 35 USC § 103***

**Claims 31, 35 – 36 and 40 - 48** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner in view of Hedges (US Patent 4,339,798).

**Regarding Claim 31**, Brenner discloses a system wherein the receiver/decoder is provided with a handheld remote control for sending data to the receiver/decoder. (“The user enters commands with user input interface, which may be any suitable input interface, such as a remote control...” – see col. 21, lines 8 – 11).

Brenner does not teach a system wherein the handheld remote control is arranged to encrypt some or all of the data sent to the receiver/decoder, and the receiver/decoder being arranged to subsequently decrypt the encrypted data.

Hedges discloses a system wherein it is arranged to encrypt/decrypt some or all of the data. (“In FIG. 8, an encryption/decryption device provides further means to insure that data communicated between the remote gaming terminal and the system or credit control station are not tampered with by unauthorized sources.” – see col. 6, lines 9 – 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Brenner by incorporating encryption/decryption abilities, as was done by Hedges, to secure data from unauthorized tampering.

**Regarding Claim 35**, Brenner discloses a system wherein the receiver/decoder communicates gaming information to the central gaming computer during gaming. (“When a user has entered all of the data necessary to place a wager, the corresponding wager data are transmitted to a wagering data management system...” – see col. 4, lines 37 – 41).

Brenner does not teach a system wherein the receiver/decoder is arranged to encrypt some or all of the gaming information communicated from the receiver/decoder to the central gaming computer means during gaming.

Hedges discloses a system wherein it is arranged to encrypt/decrypt some or all of the data. (“In FIG. 8, an encryption/decryption device provides further means to insure that data communicated between the remote gaming terminal and the system or credit control station are not tampered with by unauthorized sources.” – see col. 6, lines 9 – 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Brenner by incorporating encryption/decryption abilities, as was done by Hedges, to secure data from unauthorized tampering.

**Regarding Claim 36**, Brenner discloses wherein the communications server receives gaming information from the receiver/decoder and communicates this information to the central gaming computer. (“When a user has entered all of the data

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necessary to place a wager, the corresponding wager data are transmitted to a wagering data management system..." – see col. 4, lines 37 – 41).

Brenner does not teach a system wherein the communications server is adapted to decrypt encrypted gaming information received from the receiver/decoder and to re-encrypt this information for subsequent communication to the central gaming computer means.

Hedges discloses a system wherein it is arranged to encrypt/decrypt some or all of the data. ("In FIG. 8, an encryption/decryption device provides further means to insure that data communicated between the remote gaming terminal and the system or credit control station are not tampered with by unauthorized sources." – see col. 6, lines 9 – 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Brenner by incorporating encryption/decryption abilities, as was done by Hedges, to secure data from unauthorized tampering.

**Regarding Claims 40 – 43 and 46 – 48**, further method claims would have been obvious from system claims rejected above and is therefore rejected using the same art and rationale.

**Regarding Claims 44 – 45**, further method claims would have been obvious from system claims rejected above and is therefore rejected using the same art and rationale.

### ***Conclusion***

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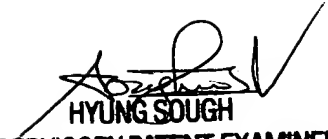
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited to McKeown (US Patent 6,287,199), Berner (US Patent 5,813,913), Kohorn (US Patent 5,713,795), Fascenda (US Patent 4,592,546), and Everton (US Patent 4,141,548) are considered to be relevant to the claimed invention due to their reference to remote gambling/gaming systems in conjunction with a live event. An additional reference cited to Bush (US Patent 5,475,585) for use of card reader in conjunction with transaction processing system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Borlinghaus whose telephone number is (703) 308-9552. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (703) 308-0505. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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